

WARRICK COUNTY AREA PLAN COMMISSION

Regular meeting held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN

Monday, January 12, 2015, 6:00 PM

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Jeff Valiant, Vice President, Amanda Mosiman, Brad Overton, Bill Byers, Richard Reid, and Jeff Willis.

Also present were Morrie Doll, Attorney; Sherri Rector, Executive Director; Molly MacGregor, and Jamie Key, Staff.

MEMBERS ABSENT: Guy Gentry, President

Roll call was taken and a quorum declared present.

MINUTES: Upon a motion made by Richard Reid and seconded by Bill Byers the Minutes of the last regular meetings held December 8, 2014 were approved as circulated.

The President explained the rules of procedure. He stated any motion would take all four votes to pass.

PLEDGE OF ALLEGIANCE

ELECTION OF OFFICERS:

Mrs. Rector asked for nominations to elect a President of the Warrick County Area Plan Commission to serve during 2015.

Brad Overton made a motion to elect Guy Gentry for President. The motion was seconded by Amanda Mosiman.

Mrs. Rector asked if there were any other nominations. Being none Brad Overton voted to close the nomination. The vote to close was seconded by Amanda Mosiman and unanimously carried.

Mrs. Rector asked for nominations to elect a Vice-President of the Warrick County Area Plan Commission to serve during 2015.

Brad Overton made a motion to elect Jeff Valiant for Vice President. The motion was seconded by Bill Byers.

Mrs. Rector asked for any other nominations. Being non Bill Byers voted to close the nomination. The vote to close was seconded by Brad Overton and unanimously carried.

APPROVAL OF CONTRACT FOR ATTORNEY 2015:

Mrs. Rector said that she gave this to everyone last month to review. She added that she didn't hear any comments back from anyone. She said if there were no changes to be made then she asks the Board to make a motion to approve the contract for 2015.

Brad Overton made a motion to approve the contract for attorney in 2015. The motion was seconded by Bill Byers and unanimously carried.

ADOPTION OF RULES AND REGULATIONS:

Mrs. Rector said that these will be the same as they were.

Brad Overton made a motion to adopt. The motion was seconded by Bill Byers and unanimously carried.

APPOINTMENT TO THE BOARD OF ZONING APPEALS:

Mrs. Rector said the first one is Municipal Representative Appointment and the only one that qualifies is Jeff Valiant.

Amanda Mosiman made a motion to accept Jeff Valiant as the Municipal Representative. The motion was seconded by Brad Overton and unanimously carried.

Mrs. Rector asked that the Board chooses a County Representative Appointment which could be Bill Byers or Jeff Willis.

Brad Overton made a motion to keep Jeff Willis as the County Representative. The motion was seconded by Amanda Mosiman and unanimously carried.

APPOINTMENT TO PLAT REVIEW COMMITTEE:

Mrs. Rector said that normally it is Guy. Brad Overton made a motion to appoint Guy Gentry to the plat review committee. The motion was seconded by Jeff Willis and unanimously carried.

FEE SCHEDULE: Mrs. Rector said there are no changes from last year. Amanda Mosiman made a motion to adopt the fee schedule. The motion was seconded by Brad Overton and unanimously carried.

ANNUAL REPORT: Mrs. Rector said that everyone should have the annual report with you in your folders and review it. She said it will be on the February Agenda for approval. She added that everything has gone up and it continues to do so.

MINUTES:

The Vice President asked if everyone received a copy of the December minutes. Being no changes the Vice President asked for a motion to approve the Minutes of the last regular meeting held December 8, 2014.

Bill Byers made a motion to approve. The motion was seconded by Jeff Willis and unanimously carried.

REZONING PETITION:

PC-R-15-01- Petition of Allstar Diversified Enterprises, Inc. by Dominic Martin, President.

To rezone .45 acres located on the E side of S Plaza Dr. approximately 320' S of the intersection formed by Rose Hill Dr. and S. Plaza Dr. Ohio Twp. Parcel 5 in Newburgh Plaza S Sub. From "C-1" Neighborhood Commercial to "C-4" General Commercial. *Complete legal on file. Advertised in The Standard January 1, 2015.*

Dominic Martin was present.

Mrs. Rector said that all return receipts are in. She said the lot is .45 acres and shows moderate to high residential. She added that the existing land use is a retail store and the surrounding property to the north, west and south are zoned "C-4" General Commercial with various businesses. She said the property to the east are zoned "R-2" One Family Dwelling with residences. Mrs. Rector said the property is not in the flood zone and fronts on South Plaza Drive. Mrs. Rector added that the stated use is retail and greenhouse and is in compliance and allowed. Mrs. Rector also said that she believes Mr. Martin wants to bring it into the same zoning as the surrounding area and will use it for a "C-4" zoning.

Dominic Martin said that is correct.

The Vice President asked if Mr. Martin had anything to add to the staff report.

Dominic Martin said they just want to get this zoning concurrent with the existing land uses in the area. He added that before the greenhouse is able to proceed they will have to have the land rezoned for the state.

The Vice President asked for any questions from the Board. Being none he asked for any remonstrators for or against the project. Being none he entertained a motion.

Richard Reid made a motion to recommend approval for PC-R-15-01 to rezone .45 acres from "C-1" Neighborhood Commercial to "C-4" General Commercial. The motion was seconded by Jeff Willis and unanimously carried.

Mrs. Rector said Monday February 9th, at 4:00 p.m. this will be sent to the Commissioners.

PRIMARY PLATS

PP-15-01- Cavendish Park Estates by Paul R and Rebecca Carey. 4.706 acres located on the E side of Frame Rd approximately 440' S of the intersection formed by Hickory Ln and Frame Rd. Ohio Twp. Parcel 2 in A&R Minor Estates Sub. *Complete legal on file. Advertised in The Standard January 1, 2015.*

Jim Biggerstaff and Paul Carey were present.

Mrs. Rector said we have all but two green cards with white pay receipts showing they were mailed in time and to the correct addresses. She added that the property is zoned Agriculture and is not in the flood zone. She said there are 3 residential lots. She said two of the lots will be new and one is an existing residence. She said the street construction plans have been approved by County Commissioners today. She added that it's basically a hammerhead, which is at the end of the existing right of way in Framewood Subdivision it comes in and gives them their frontage and meets their 50 ft. She added that the drainage plan is approved by the Drainage Board. She added that the sewer is Newburgh with capacity and Indiana-American Water with lines available. She said the proposed development is a 3 lot subdivision and the plat is in order.

The Vice President asked for anything to add to the staff report.

Jim Biggerstaff and Paul Carey said they are here to answer any questions.

The Vice President asked for any questions from the Board.

Richard Reid questioned what kind of sewer was there or was it septic.

Mrs. Rector replied that it is Newburgh Sewer.

Amanda Mosiman said that currently your entrance is off of Frame Rd. and you are proposing an entrance from the other side for the other 2 lots.

Jim Biggerstaff said that is correct and that the reason for it is because that street dead ends right now and it was an older subdivision. He said it will clean up the end of that street and Mr. Carey lives in the center lot and he has a private entrance off of Frame Rd.

The Vice President asked for any other questions from the Board. Being none he asked for any remonstrators for or against the project.

Amanda Mosiman asked if the property is zoned residential all the way around.

Mrs. Rector said yes.

Being no other questions the Vice President called for a motion.

Richard Reid made a motion for approval of PP-15-01. The motion was seconded by Bill Byers and unanimously carried.

PP-15-02- Crosstown Pt. 3 by **Mark and Debbie Boyer**. 4.0451 acres located on the E side of Bawel Rd approximately 1116' N of the intersection formed by Bawel Rd and Tennyson Rd. Boon Twp. Being Lt. 11 in Crosstown Sub Pt.1 and Boon 30-5-7. *Complete legal on file. Advertised in The Standard January 1, 2015.*

William Bivins and Mark Boyer were present.

The Vice President called for a staff report.

Mrs. Rector said we have all but three green cards with white pay receipts showing they were mailed in time and to the correct addresses. She added that the property is zoned "CON" Recreation and Conservancy District. She said there is no flood plain and there are two proposed residential lots. She added that the street construction plans are requesting no improvements to Bawel and Winchester Road. She said there is no drainage plans required. Mrs. Rector also said the septic has to be inspected by the Health Department and they will have to sign off on the recorded plat, the water is Veolia and has capacity. Mrs. Rector stated as before that it's a proposed two lot subdivision with one building site and the plat is in order.

The Vice Present asked Mr. Bivins and Mr. Boyer if they had anything to add to the staff report.

Bill Bivins said no Mrs. Rector covered it all.

The Vice President asked for any questions from the Board.

Richard Reid asked if it is off of Winchester.

Bill Bivins replied that it is off of Winchester and Bawel Road but the new building will be off of Winchester Road.

The Vice President asked for any other questions from the Board.

Amanda Mosiman asked if there was anything existing.

Mrs. Rector said just the one residence and he may want to build his son a home in the future.

Mr. Boyer said that is correct.

The Vice President asked for any other questions from the Board.

Being none he entertained a motion.

Richard Reid made a motion for the approval of PP-15-02. The motion was seconded by Jeff Willis and unanimously carried.

PP-15-03- Meijer Warrick by Amerlight LLC, Jim Vincent, Manager, OWNER, Alvrone Sater, Successor Trustee, Alvrone Sater Trust. 33.28 acres located on the W side of Libbert Rd approximately 100' NW of the intersection formed by Libbert Rd and SR 66. Ohio Twp. *Complete legal on file. Advertised in The Standard January 1, 2015.*

Joe Watson and Jim Vincent were present.

The Vice President asked for a staff report.

Mrs. Rector said we have all return receipts and green cards and the zoning is "C-4" General Commercial District. She said the flood plain is AE and there are five lots. She added that the street construction plans were approved by the County Commissioners subject to 1.) Warrick Trail, Libbert Road, and SR 66 intersection improvements and plan submittal and approved by Warrick County and INDOT. 2.) Agreed upon location for convenient store entrance onto Warrick Trail. The drainage plans have been approved by the Drainage Board. She said the sewer is Newburgh with capacity and the water is Chandler Utilities and has capacity. She said as mentioned before this is a proposed five lot commercial subdivision. Mrs. Rector said they are proposing a Meijer's store on Lot 5 and the plat is in order.

The Vice President asked if Joe Watson or Jim Vincent had anything to add.

Being none the Vice President asked for any questions from the Board.

Being none the Vice President asked if there were any remonstrators for or against the project.

Erica Taylor said that she lives on 4000 Candlewood place and she is an adjacent property owner. She said she attended the Drainage Board meeting earlier and the petitioner, Meijer has assured the Drainage Board that there are sufficient plans and they were confident that they would handle the water. She said that she lived across from 66 and they have significant water issues and she did bring that to their attention and they are very familiar with the history of the subdivision, Woodstone. She said they did pledge that they would work with Meijer to communicate and make sure that the plan continued to be appropriate and sufficient. She said she is very pleased from the response she received from them today. She added that her reason for attending this meeting was to do with lighting and signage packages that are proposed for the property. She said that her home has windows in the back that faces the proposed store and that during the summer and early fall months they do have trees but in the winter months and fall they lose that and lose the buffer of whatever the proposed signage and lighting package will be for that property. She said that she knows that in other Meijer stores around the country it has been customary that they have been approved subject to the condition related to evergreen landscaping and things of that nature. She said that she asks the Board tonight to consider making that a condition of approval, that there is some kind of evergreen landscaping on the South side of the street where her neighbors are facing the proposed development.

Richard Reid asked if she is asking to have the evergreens on the South side of the highway. He added that it would be the right of way of the highway.

Erica Taylor said she thinks that they would have to come in further to be out of the easement but she has not done any research on that.

Mrs. Rector said we cannot make someone put something on property that they do not own.

Erica Taylor said that she would like some sort of way to remediate that lighting situation.

Amanda Mosiman said the only way we could dictate that is to make them do that on the Southern edge of their property (the Meijer property). She said we can't do it on the South side of the highway, and that it would actually end up being on the North side of the highway.

Erica Taylor asked what restrictions can be proposed on the lighting.

Mrs. Rector said we do not know what they are proposing. She asked for Joe Watson and Jim Vincent to explain.

Jim Vincent said that most of the lighting systems are considered to be dark sky compliant, so the whole goal is to have as little light pollution as possible. He added that he is a developer and he is not familiar with the sign package. He said that he does know there are certain code requirements within the county and they are certainly going to be within the parameters of the code requirement. He said the project from a timing stand point has a tremendous amount of development work to develop the site, probably looking at 2016 for these types of submittals to the Building Commission to occur.

Mrs. Rector asked Joe Watson if he knew any information on the lighting or landscaping.

Joe Watson said that as far as lighting it's typically a down cast LED lighting (shoebox style), he said it is more for security reasons and they do not light up the whole neighborhood.

Mrs. Rector said on signage they would have to meet our zoning ordinance regarding signage.

Erica Taylor asked when they would be filling for that, would it be in 2016.

Jim Vincent said that he believes that is a fair statement to say and that if the Meijer store was to ask for more than allowed the adjacent property owners would be notified.

Mrs. Rector said when a variance is asked, it is public and all adjacent property owners would be notified.

Bill Bivins approached the podium. He stated that normally the street plans have been approved by the County Engineer and these have not been approved or even showed to him. He said that

he asks that it waits until they get an approval from the state so that you guys could see what you are approving. He stated that is all he believes needs to be done.

Joe Watson said that the Commissioners made the approval subject to Bobby Howard approving those.

Mrs. Rector said for everyone's information, Warrick Trail (the main Road) the County is putting that roadway in and they have hired Morley and Associates to design those street plans and the upgrades to Libbert Road and they are also working with INDOT. She said from what she understands there will be a longer turn lane on SR 66 at Libbert Road and there will be extra lanes on Libbert and Warrick Trail will be built just like the rest of it. She said it is two engineering companies working on the plat, Morley's has been hired by the County and they have not gotten the plans completed yet and that's why the Commissioners are approving in condition of street plans being submitted by Morley's and INDOT.

Jim Vincent said that this is a lot further along. He said the traffic study has been submitted to Bobby, INDOT reviewed the traffic study and they have already defined the lanes on Libbert and what's required. They have also done the intersection at High Pointe Dr. and the roadway proposed in extension to Warrick Trail. He said the only thing that is remaining is a median on the West side and the distance of the median is still in question as to how it interacts with Warrick Trail itself. He said they are acquiring the property, including all the land that consists of Warrick Trail and then dedicating that to the County at no charge. He said this is very far along from an engineering stand point and the traffic studies are complete, and they took about 12-13 weeks just to go through that process.

Mrs. Rector said when the plat is recorded they will have to have that. She said Mr. Bivins is right and they usually have not done, but since its being done for the County, that is why they were approved under these conditions. She added that Meijer's is giving them the property to build the road instead of the county having to give the money to purchase the property. She said they do have Structure Point Engineering that has done a traffic impact study, so they do have that but all of this will have to be done before any final plat is approved. She said they will have a Site Review meeting on Wednesday with Mr. Vincent and Mr. Watson to go over everything we will need for the final plat and its approval. She added that we will have a letter from the county guaranteeing the construction of Warrick Trail and the improvements to Libbert Road. She said they will be guaranteeing the construction of those roadways.

The Vice President asked if there were any other questions to the Board.

Being none he asked for any other questions, comments, and remonstrators for or against the project.

Being none the Vice President called for a motion

Richard Reid made a motion to approve PP-15-03 subject to street plans approval conditions being met. The motion was seconded by Bill Byers and unanimously carried.

ATTORNEY BUSINESS:

Mr. Doll said there have been three hearings and the judge found Mr. Asher, and Mr. Wolf in contempt and they have 30 days to bring the property into compliance. He said failure to do so could lead to possible incarceration by the Warrick County Law Enforcement. He said in addition there was a fine.

Richard Reid said when he drives by there he has seen some work that has been done recently.

Mrs. Rector said they have to have it cleaned up with no more time and the highway department would go out and clean it up. She said we go back to court on February 19th so they have until the 12th to get it cleaned up.

Morrie Doll said he will ask the Board if they want him to foreclose the judgment lean on the properties or not. He said this means Warrick County tax payers have cleaned the property on Lincoln and paid considerable cost to do so once and we may be on our way to having to have to do it for the second time. He said cost can be certified as a judgment by the court against the property as a lien and he can proceed to seek foreclosure of that lien with a sheriff's sale. He said it'd be up to the Board to direct him to do that or not. He added so that is coming.

EXECUTIVE DIRECTOR BUSINESS: None

Richard Reid made a motion to adjourn the meeting. The motion was seconded by Amanda Mosiman. Being no other business the meeting adjourned at 6:40 p.m.

Guy Gentry, President

ATTEST:

Sherri Rector, Executive Director